

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

Linda Gierulski,

Plaintiff

v.

Collectcorp Corporation,

Defendant

FILED ELECTRONICALLY

COMPLAINT

I. Introduction

1. This is an action for damages brought by an individual consumer for violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* (“the Act”) which prohibits debt collectors from engaging in abusive, unfair, and deceptive practices.

II. Jurisdiction and Venue

2. Jurisdiction of this Court is proper pursuant to 15 U.S.C. § 1692k(d), which permits an action under the Act to be brought in any court of competent jurisdiction.

3. Venue in this district is proper in that Defendant transacts business here and the conduct complained of is alleged to have occurred here.

III. Parties

4. Plaintiff, Linda Gierulski, is a natural person residing at 321 N.

Apple St., Dunmore, PA 18512.

5. Defendant, Collectcorp Corporation, (“the Company”) is a corporation engaged in the business of collecting debts in this state with a place of business located at 455 North 3rd Street, Suite 260, Phoenix, AZ 85004-3924 and is a “debt collector” as defined by the Act, 15 U.S.C. § 1692a(6).

IV. Statement of Claim

6. Within the last year, the Company attempted to collect an alleged account (“the Account”) from Plaintiff. The Account is a “debt” as that term is defined by the Act, 15 U.S.C. §1692a(5).

7. The company regularly uses the telephone to attempt to collect consumer debts alleged to be due another.

8. On or about April 7, 2008, at approximately 2:59 P.M. E.S.T., the Company caused a telephone call to be placed to telephone number (570) 343-7870.

9. The aforementioned phone number was assigned to the address identified in paragraph 4 at all times relevant to this matter.

10. During this call, an agent of the Company left this message for Plaintiff in an attempt to collect the Account:

Hello, message is for Linda Gierulski. Miss Gierulski my name is Lewis Karenza. I'm calling you from my office out of Buffalo, New York, and it's extremely important that you call me immediately once you get this message. I've been asked to get in direct contact with you. My office has been retained to represent MBNA Bank, Bank of America, with regards to a pending legal matter due to be filed in Lackawanna County regarding one of your accounts. Today is Monday, April 7. My office will be open until 10:00 P.M. this evening. My phone number is 1 800 243 7167. My office extension is 7328. This matter has a case number. The number is 073172835. Thank you.

11. On or about April 10, 2008, at approximately 3:53 P.M. E.S.T., the Company caused another telephone call to be placed to telephone number (570) 343-7870.

12. During this call, an agent of the Company left this message for Plaintiff in an attempt to collect the Account:

Hello. Good afternoon. A very important message intended to reach Linda Gierulski, or also known as Linda, ah Chavez, I think we got here, Wilga. Hello Linda, my name is Paul Tridert. I'm calling you today April the tenth concerning a pending legal matter that has been filed in my office. We now represent a financial institution concerning a personal business matter of yours, which is now being handled here as a result of a lack of your response. I also have to inform you that this call is being recorded now as proof of notification and for the pending expedition of case number

73172835 in Lackawanna County. Please give us a call back to avoid these proceedings. My number is 1 800 243 7167. Ask to speak with me, Mr. Tridert to discuss your options and handle this before it proceeds any further. Thank you.

13. In these calls, the Company failed to identify itself as a debt collector in violation of 15 U.S.C. § 1692e(11).

14. Additionally, by stating only his individual name, and by failing to state the name of his employer, each of the callers failed to provide meaningful disclosure of his identity in violation of 15 U.S.C. § 1692d(6).

15. On or about April 10, 2008, at approximately 4:10 P.M. E.S.T., Plaintiff's husband, Mark Gierulski and an agent of the Company, Mr. Tridert, spoke by telephone. Mr. Gierulski informed Mr. Tridert that Plaintiff was represented by an attorney, of the contact information for her attorney, and that all further contact should be accomplished through his office.

Nevertheless, Mr. Tridert continued to communicate with him after knowing Plaintiff was represented by an attorney in violation of 15 U.S.C.

§ 1692c(a)(2). Mr. Tridert then proceeded to attempt to persuade him to fire Plaintiff's attorney, and to resolve this matter directly with him. His statements were substantially that her lawyer didn't know what he was talking about, that he only wanted her money, and that things were different

because she lived in a “Commonwealth”, as opposed to a “State.”

16. The Company created a false impression that these calls were coming from a law office in violation of 15 U.S.C. § 1692e(3).

17. The Company's conduct attempted to mislead Plaintiff into believing that either legal action had been commenced against her or would be instituted against her if she did not immediately comply with the Company's demands in violation of 15 U.S.C. § 1692e(2) and e(5).

18. It is believed, and therefore averred, that the Company never had any authority or intent to cause a lawsuit to be initiated against Plaintiff, yet threatened to sue her, in violation of 15 U.S.C. § 1692e(5).

19. The Company's conduct created a false sense of urgency that Plaintiff was required to take immediate action to avoid dire consequences in violation of 15 U.S.C. § 1692e(10).

WHEREFORE, Plaintiff demands judgment against Defendant for statutory damages, costs, attorney's fees, and such other and further relief as the Court deems just and proper.

V. Demand for Jury Trial

Plaintiff demands a trial by jury as to all issues so triable.

Respectfully Submitted,

s/ Kenneth Pennington

Kenneth Pennington

Bar Number PA 68353

Attorney for Plaintiff

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Scranton, PA 18503-2218

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**Verification of Complaint and Certification
by Plaintiff Linda Gierulski**

Plaintiff, Linda Gierulski, being duly sworn according to law, deposes as follows:

1. I am a plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification, or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass the Defendant, cause unnecessary delay to the Defendant, or create a needless increase in the cost of litigation to the Defendant, named in the Complaint.
5. I have filed this civil Complaint in good faith and solely for the purposes set forth in it.

6. If applicable, each and every exhibit I have provided to my attorneys which has been attached to this Complaint is a true and correct copy of the original.

7. Except for clearly indicated redactions made by my attorneys where appropriate, I have not altered, changed, modified, or fabricated these exhibits, except that some of the attached exhibits may contain exhibit labels and some of my own handwritten notations.

Linda Gierulski
Linda Gierulski
Plaintiff

Subscribed and sworn to before me this
3rd day of April, 2009.

Kimberly M. Bryden

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
Kimberly M. Bryden - Notary Public
City of Scranton, Lackawanna County
MY COMMISSION EXPIRES NOV. 08, 2010

